IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8479 of 1999

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed to see the judgement? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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CHANDUBHAI AALJIBHAI PARMAR

Versus

STATE OF GUJARAT

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Appearance:

1. Special Civil Application No. 8479 of 1999

MR MAHENDRA K PATEL for Petitioner No. 1

GOVERNMENT PLEADER for Respondent No. 1-4

RULE SERVED BY DS for Respondent No. 1-4

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CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 08/04/2004

ORAL JUDGEMENT

The petitioner is a permanent resident of village

Podheria of Mehsana District. The petitioner was granted Hawker's licence for selling Kerosene through Cart to the Ration Card holders and the same was permitted through an hand-cart.

2.1 It is the case of the petitioner that this is the only livelihood of the petitioner and he was granted the licence for the last 20 years. According to the petitioner, during an inspection on 2nd May 1997 by the District Supply Officer, certain irregularities were found by the authority which are narrated in the notice, namely, the licence holder himself is not distributing Kerosene, but the same is distributed through one Smt.Kantaben Mohanbhai Parmar; the Kerosene is given to other persons who are not the card holders and the card holders are deprived of Kerosene; and the petitioner is not using standard measurement and is selling Kerosene in black-market. Apart from that, the petitioner is not maintaining of all the measurement equipments which are required under the Rules. The allegation was also that he is not preparing bills and not giving the bills to the consumers. Out of 12 card holders who were examined on the date of inspection, in seven cases, the distribution of Kerosene was not entered in the card, but the same was disposed of in illegal manner. As per the statement recorded on the date of inspection of Smt. Kantaben Mohanbhai Parmar, Kerosene was distributed at Rs.3/- per ltr. and admittedly on the card, the quantity, price, distribution area, and card number were not displayed.

2.2 The notice was issued to the petitioner on 23rd February 1998 and the hearing was fixed on 15th March 1998. Since the petitioner did not remain present, again a notice was issued on 1st June 1998 and the hearing was fixed on 15th June 1998. He did not remain present on the date of hearing and for the first time before the revisional authority, he has stated that he was not well during the period from 12th June 1998 to 17th June 1998.

2.3 It may noted that the order is passed on 24th July 1998 by the District Supply Officer, but the petitioner has never inquired from the office of the District Supply Officer as to what happened on 15th June 1998. Therefore, the District Supply Officer had no other option, but to pass the order on examining the papers and the documents available with him. In that view of the matter, the District Supply Officer has found that the licence holder committed breach of Clauses 16, 17, 23, and 24 of the Order and Condition Nos.4, 7, 8, 5, 6, 9 and 13 of the licence and finally cancelled the licence of the petitioner and amount of deposit of the

petitioner was also forfeited.

3. The petitioner preferred Revision Application before the State Government which was considered by the Deputy Secretary, Food and Civil Supplies Department and after considering the submission made by the Advocate for the petitioner, has confirmed the order of the District Supply Officer dated 24th July 1998. The revisional authority has not found reasonable the explanation given by the petitioner of his illness and has found that sufficient opportunity was given to the petitioner and inspite of that he has not availed of the opportunity and hence the order of the District Supply Officer could not be quashed on the ground of violation of principles of natural justice. The revisional authority has also found that the allegations made and the statements recorded are just and proper in view of the fact that all the documents and the statements are counter-signed by the representative of the petitioner. It was also found that the Kerosene was disposed of at higher price and the other allegations were found to be true.

4. Learned Advocate Mr.Patel for the petitioner argued that in view of the fact that petitioner could not satisfy the Officer under whom he is running the fair price shop, he has met with this fate. It may be noted that this allegation is made for the first time. The petitioner has not filed any reply before the first authority nor this allegation is made in the revision memo. Therefore, the story which was tried to be added by the petitioner for the first time is an afterthought and is required to be rejected.

5. I have heard learned Advocate Mr.Patel at length. Mr.Patel could not point out any illegality or irregularity which has been committed by any of the authorities. Therefore, the order passed by the authority is just and proper looking to the allegations which are levelled against the petitioner and no interference is called for by this Court in its discretionary jurisdiction. The petition is, therefore, dismissed. Rule is discharged. No order as to costs.

(K.S. Jhaveri, J.)
Sreeram.